HOUSE BILL REPORT
HB 1591

As Reported by House Committee On:
Community Safety

Title: An act relating to providing remedies for defendant survivors of domestic violence, sexual assault, or human trafficking.

Brief Description: Providing remedies for defendant survivors of domestic violence, sexual assault, or human trafficking.

Sponsors: Representatives Taylor, Goodman, Parshley, Simmons, Ormsby, Scott, Doglio, Salahuddin, Reed and Davis.

Brief History:

Committee Activity:

Community Safety: 2/10/25, 2/11/25, 1/20/26, 2/3/26 [DPS].

Brief Summary of Substitute Bill

- Establishes a sentencing alternative for defendants who are survivors of domestic violence, sexual assault, or human trafficking, and authorizes the court to impose the sentencing alternative or a sentence below the standard range in applicable cases.
- Authorizes the court to resentence persons who are survivors of domestic violence, sexual assault, or human trafficking, under certain circumstances.
- Authorizes the court to vacate records of conviction for persons who are survivors of domestic violence, sexual assault, or human trafficking, under certain circumstances.
- Requires the Department of Corrections, in partnership with the Washington State Center for Court Research and in consultation with the Washington State Supreme Court's Gender and Justice Commission, to submit a report containing specified information about the bill's implementation within three years of enactment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON COMMUNITY SAFETY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Goodman, Chair; Simmons, Vice Chair; Griffey, Assistant Ranking Minority Member; Davis, Farivar, Fosse and Obras.

Minority Report: Do not pass. Signed by 1 member: Representative Graham, Ranking Minority Member.

Minority Report: Without recommendation. Signed by 1 member: Representative Burnett.

Staff: Corey Patton (786-7388).

Background:

Sentencing Reform Act.
For most felony offenses, the Sentencing Reform Act (SRA) determines a specific sentence range within the statutory maximum according to a sentencing grid. The sentencing grid provides a standard range of months for the sentence, based on both the severity, or "seriousness level," of the offense and the convicted person's "offender score," which is based on the person's criminal history. Additional sentencing policies may further increase or decrease the standard sentence range.

For example, certain sentencing enhancements add a specified amount of time to the standard sentence range if the state proves that the offense involves certain conduct. The court is also authorized to impose exceptional sentences either above or below the standard range for substantial and compelling reasons. The SRA provides a nonexhaustive list of mitigating circumstances that the court may consider when deciding whether to impose an exceptional sentence below the standard range. One such mitigating circumstance is where the defendant commits an offense involving domestic violence in response to a continuing pattern of coercion, control, or abuse by the victim of the offense.

Vacating a Record of Conviction.
The court may vacate a person's record of conviction for certain criminal offenses if the person meets specified eligibility requirements, which vary depending on the nature of the conviction. If the court vacates the record of conviction, the offense is no longer included in the person's criminal history and the person may state that he or she has never been convicted of that crime, including when responding to questions pertaining to licensing, employment, and housing applications. Certain types of convictions may not be vacated.

Domestic Violence, Sexual Assault, and Human Trafficking.
For purposes of the SRA, a "victim of domestic violence" is an intimate partner or household member who has been subjected to physical harm or sexual and psychological

abuse by an intimate partner or household member as part of a pattern of assaultive, coercive, and controlling behaviors directed at achieving compliance from or control over that intimate partner or household member. "Domestic violence" includes, but is not limited to, offenses like Rape, Stalking, Assault, or Kidnapping when committed either by one family or household member against another, or one intimate partner against another intimate partner. An "intimate partner" includes any of the following:

- spouses or domestic partners;
- former spouses or former domestic partners;
- persons with a child in common regardless of whether they have ever been married or lived together;
- adults presently or previously residing together who have or have had a dating relationship;
- persons 16 years of age or older presently or previously residing together who have or have had a dating relationship; and
- persons 16 years of age or older with whom a person 16 years of age or older has or has had a dating relationship.

A "victim of sexual assault" is a person who is a victim of a sexual assault offense, nonconsensual sexual conduct, or nonconsensual penetration, and who suffers physical, emotional, financial, or psychological impacts as a result. "Sexual assault offenses" include, but are not limited to, sex offenses such as Rape, Child Molestation, and Sexual Misconduct with a Minor.

State law also provides criminal penalties for Trafficking, which occurs when a person recruits, entices, harbors, transports, isolates, solicits, provides, obtains, buys, purchases, maintains, or receives by any means another person and:

- knows, or recklessly disregards the fact, that force, fraud, or coercion will be used to cause the person to engage in forced labor, involuntary servitude, a sexually explicit act, or a commercial sex act; or
- knowingly, or in reckless disregard, causes a person under 18 years of age to engage in a sexually explicit act or commercial sex act, or benefits financially or by receiving anything of value from participation in a specified act or venture.

Summary of Substitute Bill:

Sentencing Options for Survivors of Domestic Violence, Sexual Assault, or Human Trafficking.

A sentencing alternative is established for eligible defendants who are survivors of domestic violence, sexual assault, or human trafficking, and the court is authorized to impose the sentencing alternative or a sentence below the standard range in applicable cases. A defendant is eligible for the sentencing alternative or other reduced sentence if:

- at the time of the offense, the defendant was a verified victim of domestic violence, sexual assault, or human trafficking involving a pattern of severe or coercive abuse

that created ongoing fear, control, or dependency, and subjected the defendant to substantial physical, sexual, or psychological abuse;
- the domestic violence or abuse suffered by the defendant was the primary and proximate cause of the defendant's criminal conduct; and
- generally applicable sentencing requirements would be unduly harsh given the nature and circumstances of the crime and the defendant's history, character, and condition.

A verified victim is a person for whom there exists a criminal or civil court record referencing the person's victimization, a documented report from a qualified professional attesting to the person's victimization, or a protection order, restraining order, or no-contact order naming the person as a victim. Domestic violence or abuse suffered by a defendant may only be considered the primary and proximate cause of the defendant's criminal conduct if the court finds a temporal nexus between the domestic violence or abuse and the criminal conduct. Remote or historical domestic violence or abuse suffered by the defendant without a contemporaneous connection to the criminal conduct does not satisfy this requirement.

Before imposing the sentencing alternative or other reduced sentence, the court must find whether the defendant meets the above eligibility criteria. The court may consider the following factors and evidence when making its finding:
- whether the underlying crime was committed against an intimate partner who committed domestic violence against the defendant;
- whether the defendant has been diagnosed with or treated for any behavioral health conditions related to prior victimization;
- evidence that the defendant's prior victimization affected the defendant's perception of safety and security, perception of the ability to receive help through law enforcement or other government entities, or ability to achieve financial independence;
- oral and written arguments, written statements, testimony, medical records and documents, physical evidence, specified protection orders, police reports, and recordings of 911 calls; and
- any other factors or evidence the court deems relevant.

If the court finds that the defendant meets the eligibility criteria, the court may impose the sentencing alternative or other reduced sentence, which may include departing downward from any sentencing enhancements or imposing a sentence below any mandatory minimum terms, except for offenses involving sexual abuse. The court must impose the sentencing alternative if the defendant meets the eligibility criteria and the court finds the sentencing alternative is appropriate. The court may order the Department of Corrections (DOC) to complete a risk assessment or chemical dependency screening report to help determine whether the sentencing alternative is appropriate. When utilizing the sentencing alternative, the court is authorized to waive the standard range sentence and any applicable enhancements, and instead impose:
- an extended term of community custody with a reduced term of confinement; or

- an extended term of community custody without any term of confinement.

The court has complete discretion to determine the term of confinement and community custody, provided that the combined length of both does not exceed the standard range for the underlying crime, including any enhancements. For any person serving community custody under the sentencing alternative:

- the court and the DOC may impose conditions they deem appropriate;
- the DOC must report any violations of conditions to the court;
- the court may order the defendant to report to court at any time to evaluate the person's compliance;
- the court may modify conditions or impose sanctions for violations; and
- if the person violates conditions, the court may order the person to serve a term of total confinement within the standard range.

Defendants convicted of Aggravated Murder in the first degree, Murder in the first degree, Homicide by Abuse, Assault of a Child in the first degree, Vehicular Homicide, an offense committed with intent to commit a terrorist act, an offense requiring sex offender registration, or an attempt or conspiracy to commit any of the aforementioned crimes are ineligible for the sentencing alternative or other reduced sentence.

The nonexhaustive list of mitigating circumstances provided under the Sentencing Reform Act is modified. The existing mitigating circumstance for defendants who commit an offense involving domestic violence in response to a continuing pattern of coercion, control, or abuse by the victim of the offense is eliminated, and a new mitigating circumstance is established for defendants who meet the same eligibility criteria for the sentencing alternative established by the bill.

Resentencing.
An incarcerated person serving a sentence of at least eight years, imposed prior to the effective date of the bill, may petition the court for resentencing based on the same eligibility criteria for the sentencing alternative established by the bill. The petition must include at least two specified pieces of evidence that corroborate the petitioner's claim of eligibility. If the court orders a hearing, the court may consider the same factors and evidence it would have considered at a sentencing hearing after the effective date of the bill, and other relevant facts or circumstances. The prosecutor must make reasonable efforts to notify victims and survivors of victims about the petition and hearing date, and provide access to related services. The court must provide an opportunity for victims and survivors of victims to present a statement personally or by representation.

If the court grants the petition and resentences the person, any new sentence imposed may not be greater than the original sentence. If the court denies resentencing, the court must inform the petitioner and enter an order including written findings of fact and reasoning. The court may deny a petition for resentencing without a hearing. The petitioner may appeal a denial or a newly imposed sentence.

Vacating Records of Conviction.
A person who has been convicted of a misdemeanor, gross misdemeanor, or felony offense, and who has completed the conditions of the person's sentence, may apply to the court to vacate the person's record of conviction based on the same eligibility criteria for the sentencing alternative established by the bill. When reviewing the person's application, the court may consider the same factors and evidence it would have considered at a sentencing hearing after the effective date of the bill. However, the court may instead rely solely upon the person's sworn testimony at a hearing before the court. If the court finds that the person qualifies, the court may, in the interest of justice, waive any statutory restrictions relating to vacating convictions and proceed with vacating the person's record of conviction.

Implementation Report.
Subject to appropriation, the DOC, in partnership with the Washington State Center for Court Research and in consultation with the Washington State Supreme Court's Gender and Justice Commission, must submit a report to the Legislature within three years of the bill's enactment. The report must include:

- the number of persons applying for relief under a provision of the bill;
- demographic information about applicants;
- the types of offenses committed by applicants; and
- outcomes for applicants.

Substitute Bill Compared to Original Bill:

The substitute bill: (1) adds an intent section; (2) modifies certain eligibility criteria for defendants to receive relief established by the bill; (3) specifies that, when sentencing an eligible defendant, the court is authorized to impose a sentence below any mandatory minimum terms to the extent authorized under state law, except for offenses involving sexual abuse; (4) eliminates an illustrative example of a mitigating circumstance that the court may consider when imposing a sentence below the standard range, related to defendants who committed a domestic violence offense in response to a continuing pattern of coercion, control, or abuse by the victim of the offense; (5) requires the Department of Corrections, in partnership with the Washington State Center for Court Research and in consultation with the Washington State Supreme Court's Gender and Justice Commission, to submit a report to the Legislature within three years of the bill's enactment with specified information about the bill's implementation; and (6) updates underlying statutes to reflect changes enacted during the 2025 Legislative Session.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 4, 2026.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the

session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The pathways from victimization to incarceration can be complex. Survivors of crime sometimes commit offenses themselves due to coercion, threats, fear, trafficking, or self-defense, resulting in those survivors returning to court as defendants because of the abuse they have suffered. However, the criminal justice system repeatedly fails to recognize survivor-defendants' experiences. Their victimization often disappears from the conversation even when such victimization is central to a case, and courts are left without a clear, lawful way to consider prior victimization when making sentencing decisions. This leads to sentences that do not reflect reality or promote justice and healing.

This bill creates a way for courts to acknowledge survivor-defendants' experiences, providing a structured, limited tool to offer relief on a case-by-cases basis when it is truly warranted. The relief offered through this bill does not apply to everyone, nor does it excuse the harm caused by criminal conduct. Other states have enacted or considered similar legislation to address this issue.

There are some people who would not qualify for relief under this bill because they lack documented proof of their victimization. Defendants should be able to access relief by providing an assessment to the court, rather than by having particular types of documented contact with law enforcement or other authorities.

(Opposed) There are some concerns that this bill would move the state's sentencing policies away from the goal of imposing sentences in a manner that treats defendants equally. This bill authorizes judicial discretion that could create more disparity across almost every category of offense, including strike offenses and offenses with mandatory enhancements. The victimization of someone today should not be excused just because the perpetrator was also a victim in the past. The majority of victims do not go on to victimize others. This bill does not require current victims to be consulted about sentencing decisions.

Persons Testifying: (In support) David Martin, KCPAO; Colleen McCarty, Oklahoma Appleseed; Cindy Elsberry, Washington Defender Association; David Martin, KCPAO; Elizabeth Hendren, SVLC; Doris O'Neal, YWCA; and Dr. Carolyn West.

(Opposed) Russell Brown, WA Association of Prosecuting Attorneys; and James McMahan, WA Assoc Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: Emi Koyama, Coalition for Rights and Safety; Katie Hurley, King county dept of public defense; and Roshelle Cleland, WA State Coalition Against Domestic Violence (WSCADV).